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CINCPAC FOR POLAD

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SUBJ: SUPREME COURT EXONERATES MRS GANDHI

REF: NEW DELHI 14791

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1. THE FIVE JUDGES ON THE SUPREME COURT BENCH THAT HEARD MRS GANDHI'S CASE COMPLETED READING THEIR INDIVIDUAL JUDGMENTS BY LATE AFTERNOON NOVEMBER 7. ALL FIVE UPHELD THE VALIDITY OF THE ELECTION LAW AMENDMENTS PASSED BY PARLIAMENT TO EXONERATE MRS GANDHI; REJECTED THE CROSS-APPEAL FILED WITH THE COURT BY THE LAWYER OPPOSING THE PRIME MINISTER (THE CHARGES IN THE CROSS-APPEAL WERE ALSO REJECTED BY JUDGE SINHA IN HIS JUNE 12 DECISION); AND DISMISSED THE TWO COUNTS ON WHICH THE ALLAHABAD COURT HAD DECIDED AGAINST HER.

2. A MAJORITY OF THE JUDGES, AND POSSIBLY ALL FIVE, DECLARED CLAUSE 4 OF THE 39TH CONSTITUTIONAL AMENDMENT UNCONSTITUTIONAL. (NOTE: AS REPORTED EARLIER, CLAUSE 4 RETROACTIVELY DECLARES MRS GANDHI'S 1971 ELECTION VALID AND VOIDS OUTSTANDING COURT ORDERS REGARDING HER ELECTION.) JUDGE KHANNA CRITICIZED CLAUSE 4 AS VIOLATING THE PRINCIPLE OF FREE AND FAIR ELECTIONS WHICH HE DESCRIBED AS A PART OF THE BASIC STRUCTURE OF THE CONSTITUTION. JUDGE MATTHEW ATTACKED IT FOR INTERFERING WITH JUDICIAL REVIEW. JUSTICE CHANDRACHUD DESCRIBED CLAUSE 4 AS "AN OUTRIGHT NEGATION OF THE DOCTRINE OF EQUALITY IN LAW AND AS A VIOLATION OF THE RULE OF LAW." BEG AND RAY ALSO APPEAR TO HAVE DECLARED CLAUSE 4 UNCONSTITUTIONAL THOUGH IN LESS SPECIFIC TERMS. BEG DESCRIBED IT AS "NOT LEGALLY JUSTIFIED;" RAY OBSERVED THAT IT "OFFENDS THE RULE OF LAW."

3. SEVEN TO EIGHT THOUSAND PEOPLE FROM DELHI AND OUTLYING AREAS AND CARRYING CONGRESS BANNERS AND PLACARDS WERE BUSSED TO MRS GANDHI'S RESIDENCE DURING THE MORNING OF NOVEMBER 7. THEY WERE JOINED BY CONGRESS CHIEF MINISTERS, STATE CONGRESS PARTY LEADERS, AND GOI MINISTERS. FOLLOWING THE READING OF THE THIRD JUDGMENT EXONERATING HER, MRS GANDHI EMERGED FROM HER HOME AND ADDRESSED THE CROWD FOR TWENTY MINUTES. IN A LOW KEY SPEECH, SHE THANKED THE CROWD FOR ITS SUPPORT, SPOKE OF THE "DIFFICULTY" PATH THE COUNTRY WAS FOLLOWING, THE POVERTY THAT IS YET TO BE REMOVED, AND THE "RESPONSIBILITIES" THAT ACCOMPANY DEMOCRACY. SHE ATTACKED LIMITED OFFICIAL USE

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THE OPPOSITION FOR ITS AGITATIONAL AND SELF-SERVING POLICIES, CALLED FOR UNITY AND DISCIPLINE AND PLEDGED HER GOVERNMENT'S EFFORTS TO ASSIST PARTICULARLY INDIA'S UNTOUCHABLES, TRIBALS AND OTHER "BACKWARD PEOPLES."

4. SWITCHING TO FOREIGN THEMES, MRS GANDHI CHARGED THAT ATTEMPTS HAVE BEEN MADE FROM WITHIN AND WITHOUT TO CREATE DIFFICULTIES AND WARNED "WE HAVE SEEN THE CON-

SEQUENCES OF EXTERNAL INTERFERENCE IN OTHER COUNTRIES."
SHE MADE NO REFERENCE TO THE COURT DECISION IN HER
REMARKS.

5. NOW THAT THE COURT LOG JAM IS OUT OF THE WAY, THE
PRIME MINISTER MAY TAKE SOME POLITICAL INITIATIVES
OVER THE UPCOMING WEEKS, INCLUDING A POSSIBLE CABINET
RESHUFFLE AND A DECISION ON WHETHER TO HOLD ELECTIONS.
THE WIRE SERVICES ARE REPORTING THAT CONGRESS MPS,
CHIEF MINISTERS, UNION MINISTERS AND MEMBERS OF THE
CONGRESS WORKING COMMITTEE AND PARLIAMENTARY BOARD WILL
MEET IN DELHI LATER TONIGHT AND ON NOVEMBER 8 AS WELL.
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